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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No. EB-03-CF-205
Jeff Amedro	)	
Db a Cell Page	)	NAL/Acct. No. 200332340006
Morgantown, WV	)	
	)	FRN 0009-5345-61

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: September 5, 2003**

By the District Director, Columbia Office, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Mr. Jeff Amedro, doing business as (dba) Cell Page has apparently violated Section 301 of the Communications Act of 1934 (Act)<sup>1</sup>, as amended by operating radio transmitting equipment on 157.740 MHz without an instrument of authorization. We conclude that Cell Page is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

**II. BACKGROUND**

2. In February 2003, the FCC Columbia Office received information from an FCC licensed user that Cell Page was operating an unlicensed paging system on the frequency 157.740 MHz in Morgantown and Clarksburg, WV.

3. On March 20, 2003, an agent from the Columbia Office traveled to Clarksburg, WV to monitor transmissions on the frequency 157.740 MHz. Using electronic direction finding techniques, the agent located paging transmissions emanating from a site northeast of Clarksburg, WV. The agent determined that the paging transmissions were from a Cell Page owned transmitter.

4. Still on March 20, 2003, the agent visited the office of Cell Page in Morgantown, WV. During the visit, the owner, Mr. Jeff Amedro, produced a license issued to Home Security of West Virginia, Inc., which had expired in December 2000. Mr Amedro admitted that Cell Page did not have a valid instrument of authorization for the operation on 157.740 MHz. The agent advised Mr. Amedro that operation without a valid FCC station license violated the Act.

5. On April 11, 2003, the agent traveled to Morgantown, WV and monitored the frequency 157.740 MHz. Again, he observed transmissions by Cell Page on the frequency between 11:23 AM and 11:25 AM. Further monitoring on August 14, 2003 revealed that Cell Page was still operating without authorization.

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<sup>1</sup> 47 U.S.C. § 301.

### III. DISCUSSION

6. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act. A review of Commission's records showed that there was no evidence of a Commission authorization to operate this transmitter on the frequency 157.740 MHz from Morgantown and Clarksburg, WV.

7. Based on the evidence before us, we find that Cell Page willfully<sup>2</sup> and repeatedly<sup>3</sup> violated Section 301 of the Act. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")<sup>4</sup>, sets the base forfeiture amount at \$10,000 for operation without an instrument of authorization. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,<sup>5</sup> which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the Policy Statement and the statutory factors to the instant case and applying the inflation adjustments, we believe that a ten thousand dollar (\$10,000) monetary forfeiture is warranted.

### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Commission's Rules ("Rules")<sup>7</sup> Cell Page is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willfully and repeatedly violating Section 301 of the Act.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Cell Page SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance

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<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>4</sup> 47 C.F.R. § 1.80.

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111 and 0.311.

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Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200332340006, and FRN 0009-5345-61.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Spectrum Enforcement Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200332340006.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Cell Page, 440 Spruce Street, Morgantown, WV 26505.

FEDERAL COMMUNICATIONS COMMISSION

Charles C. Magin  
District Director  
Columbia Office

Attachment A – FCC List of Small Entities, October 2002

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<sup>8</sup> See 47 C.F.R. § 1.1914.